

**ESSB 6239** - H AMD 911

By Representative Rodne

FAILED 02/08/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 26.04.010 and 1998 c 1 s 3 are each amended to read  
4 as follows:

5 (1) Marriage is a civil contract between (~~a male and a female~~)  
6 two persons who have each attained the age of eighteen years, and who  
7 are otherwise capable.

8 (2) Every marriage entered into in which either (~~the husband or~~  
9 ~~the wife~~) person has not attained the age of seventeen years is void  
10 except where this section has been waived by a superior court judge of  
11 the county in which one of the parties resides on a showing of  
12 necessity.

13 (3) Where necessary to implement the rights and responsibilities  
14 of spouses under the law, gender specific terms such as husband and  
15 wife used in any statute, rule, or other law must be construed to be  
16 gender neutral and applicable to spouses of the same sex.

17 (4) No regularly licensed or ordained minister or any priest,  
18 imam, rabbi, or similar official of any religious organization is  
19 required to solemnize or recognize any marriage. A regularly licensed  
20 or ordained minister or priest, imam, rabbi, or similar official of  
21 any religious organization shall be immune from any civil claim or  
22 cause of action based on a refusal to solemnize or recognize any  
23 marriage under this section. No state agency or local government may  
24 base a decision to penalize, withhold benefits from, or refuse to  
25 contract with any religious organization on the refusal of a person  
26 associated with such religious organization to solemnize or recognize  
27 a marriage under this section.

1 (5) No religious organization is required to provide  
2 accommodations, facilities, advantages, privileges, services, or goods  
3 related to the solemnization or celebration of a marriage.

4 (6) A religious organization shall be immune from any civil claim  
5 or cause of action, including a claim pursuant to chapter 49.60 RCW,  
6 based on its refusal to provide accommodations, facilities,  
7 advantages, privileges, services, or goods related to the  
8 solemnization or celebration of a marriage.

9 (7) For the purposes of this section:

10 (a) "Recognize" means to provide religious-based services that:

11 (i) Are delivered by a religious organization, or by an individual  
12 who is managed, supervised, or directed by a religious organization;  
13 and

14 (ii) Are designed for married couples or couples engaged to marry  
15 and are directly related to solemnizing, celebrating, strengthening,  
16 or promoting a marriage, such as religious counseling programs,  
17 courses, retreats, and workshops.

18  
19 **Sec. 2.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read  
20 as follows:

21 (1) Marriages in the following cases are prohibited:

22 (a) When either party thereto has a (~~wife or husband~~) spouse or  
23 registered domestic partner living at the time of such marriage,  
24 unless the registered domestic partner is the other party to the  
25 marriage; or

26 (b) When the (~~husband and wife~~) spouses are nearer of kin to  
27 each other than second cousins, whether of the whole or half blood  
28 computing by the rules of the civil law(~~;~~ ~~or~~

29 ~~(c) When the parties are persons other than a male and a female).~~

30 (2) It is unlawful for any (~~man to marry his father's sister,~~  
31 ~~mother's sister, daughter, sister, son's daughter, daughter's~~  
32 ~~daughter, brother's daughter or sister's daughter; it is unlawful for~~  
33 ~~any woman to marry her father's brother, mother's brother, son,~~  
34 ~~brother, son's son, daughter's son, brother's son or sister's son))~~

1 person to marry his or her sibling, child, grandchild, aunt, uncle,  
2 niece, or nephew.

3 (3) A marriage between two persons that is recognized as valid in  
4 another jurisdiction is valid in this state only if the marriage is  
5 not prohibited or made unlawful under subsection (1)(a)(~~(1)(e)~~)  
6 or (2) of this section.

7 (4) A legal union, other than a marriage, between two individuals  
8 that was validly formed in another state or jurisdiction and that  
9 provides substantially the same rights, benefits, and responsibilities  
10 as a marriage, does not prohibit those same two individuals from  
11 obtaining a marriage license in Washington.

12 (5) No state agency or local government may base a decision to  
13 penalize, withhold benefits from, license, or refuse to contract with  
14 any religious organization based on the opposition to or refusal to  
15 provide accommodations, facilities, advantages, privileges, service,  
16 or goods related to the solemnization or celebration of a marriage.

17 (6) No religiously affiliated educational institution shall be  
18 required to provide accommodations, facilities, advantages,  
19 privileges, service, or goods related to the solemnization or  
20 celebration of a marriage, including a use of any campus chapel or  
21 church. A religiously affiliated educational institution shall be  
22 immune from a civil claim or cause of action, including a claim  
23 pursuant to chapter 49.60 RCW, based on its refusal to provide  
24 accommodations, facilities, advantages, privileges, service, or goods  
25 related to the solemnization or celebration of a marriage.

26  
27 NEW SECTION. Sec. 3. A new section is added to chapter 26.04 RCW  
28 to read as follows: "Religious organization" as defined in this  
29 chapter must be interpreted liberally to include faith-based social  
30 service organizations involved in social services directed at the  
31 larger community.

32  
33 **Sec. 4.** RCW 26.04.050 and 2007 c 29 s 1 are each amended to read  
34 as follows:

1 The following named officers and persons, active or retired, are  
2 hereby authorized to solemnize marriages, to wit: Justices of the  
3 supreme court, judges of the court of appeals, judges of the superior  
4 courts, supreme court commissioners, court of appeals commissioners,  
5 superior court commissioners, any regularly licensed or ordained  
6 minister or any priest, imam, rabbi, or similar official of any  
7 ~~((church or))~~ religious ~~((denomination))~~ organization, and judges of  
8 courts of limited jurisdiction as defined in RCW 3.02.010.

9  
10 **Sec. 5.** RCW 26.04.060 and 1975-'76 2nd ex.s. c 42 s 25 are each  
11 amended to read as follows:

12 A marriage solemnized before any person professing to be a  
13 minister or a priest ~~((of any))~~, imam, rabbi, or similar official of  
14 any religious ~~((denomination))~~ organization in this state or  
15 professing to be an authorized officer thereof, is not void, nor shall  
16 the validity thereof be in any way affected on account of any want of  
17 power or authority in such person, if such marriage be consummated  
18 with a belief on the part of the persons so married, or either of  
19 them, that they have been lawfully joined in marriage.

20  
21 **Sec. 6.** RCW 26.04.070 and Code 1881 s 2383 are each amended to  
22 read as follows:

23 In the solemnization of marriage no particular form is required,  
24 except that the parties thereto shall assent or declare in the  
25 presence of the minister, priest, imam, rabbi, or similar official of  
26 any religious organization, or judicial officer solemnizing the same,  
27 and in the presence of at least two attending witnesses, that they  
28 take each other to be ~~((husband and wife))~~ spouses.

29  
30 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.04 RCW  
31 to read as follows:

32 For purposes of this chapter, "religious organization" includes,  
33 but is not limited to, churches, mosques, synagogues, temples,  
34 nondenominational ministries, interdenominational and ecumenical

1 organizations, mission organizations, faith-based social agencies, and  
2 other entities whose principal purpose is the study, practice, or  
3 advancement of religion.

4  
5 **Sec. 8.** RCW 26.60.010 and 2007 c 156 s 1 are each amended to read  
6 as follows:

7 Many Washingtonians are in intimate, committed, and exclusive  
8 relationships with another person to whom they are not legally  
9 married. These relationships are important to the individuals  
10 involved and their families; they also benefit the public by providing  
11 a private source of mutual support for the financial, physical, and  
12 emotional health of those individuals and their families. The public  
13 has an interest in providing a legal framework for such mutually  
14 supportive relationships, whether the partners are of the same or  
15 different sexes, and irrespective of their sexual orientation.

16 ~~((The legislature finds that same sex couples, because they cannot  
17 marry in this state, do not automatically have the same access that  
18 married couples have to certain rights and benefits, such as those  
19 associated with hospital visitation, health care decision-making,  
20 organ donation decisions, and other issues related to illness,  
21 incapacity, and death. Although many of these rights and benefits may  
22 be secured by private agreement, doing so often is costly and  
23 complex.))~~

24 The legislature ~~((also))~~ finds that the public interest would be  
25 served by extending rights and benefits to ~~((different-sex))~~ couples  
26 in which either or both of the partners ~~((is))~~ are at least sixty-two  
27 years of age. While these couples are entitled to marry under the  
28 state's marriage statutes, some social security and pension laws  
29 nevertheless make it impractical for these couples to marry. For this  
30 reason, chapter 156, Laws of 2007 specifically allows couples to enter  
31 into a state registered domestic partnership if one of the persons is  
32 at least sixty-two years of age, the age at which many people choose  
33 to retire and are eligible to begin collecting social security and  
34 pension benefits.

1 The rights granted to state registered domestic partners in  
2 chapter 156, Laws of 2007 will further Washington's interest in  
3 promoting family relationships and protecting family members during  
4 life crises. Chapter 156, Laws of 2007 does not affect marriage or  
5 any other ways in which legal rights and responsibilities between two  
6 adults may be created, recognized, or given effect in Washington.

7

8 **Sec. 9.** RCW 26.60.030 and 2007 c 156 s 4 are each amended to read  
9 as follows:

10 To enter into a state registered domestic partnership the two  
11 persons involved must meet the following requirements:

12 (1) Both persons share a common residence;

13 (2) Both persons are at least eighteen years of age and at least  
14 one of the persons is sixty-two years of age or older;

15 (3) Neither person is married to someone other than the party to  
16 the domestic partnership and neither person is in a state registered  
17 domestic partnership with another person;

18 (4) Both persons are capable of consenting to the domestic  
19 partnership; and

20 (5) Both of the following are true:

21 (a) The persons are not nearer of kin to each other than second  
22 cousins, whether of the whole or half blood computing by the rules of  
23 the civil law; and

24 (b) Neither person is a sibling, child, grandchild, aunt, uncle,  
25 niece, or nephew to the other person(~~(+and~~

26 ~~(6) Either (a) both persons are members of the same sex; or (b) at~~  
27 ~~least one of the persons is sixty two years of age or older)).~~

28

29 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.60  
30 RCW to read as follows:

31 (1) Partners in a state registered domestic partnership may apply  
32 and receive a marriage license and have such marriage solemnized  
33 pursuant to chapter 26.04 RCW, so long as the parties are otherwise

34

1 eligible to marry, and the parties to the marriage are the same as the  
2 parties to the state registered domestic partnership.

3 (2) A state registered domestic partnership is dissolved by  
4 operation of law by any marriage of the same parties to each other, as  
5 of the date of the marriage stated in the certificate.

6 (3)(a) Except as provided in (b) of this subsection, any state  
7 registered domestic partnership in which the parties are the same sex,  
8 and neither party is sixty-two years of age or older, that has not  
9 been dissolved or converted into a marriage by the parties by June 30,  
10 2014, is automatically merged into a marriage and is deemed a marriage  
11 as of June 30, 2014.

12 (b) If the parties to a state registered domestic partnership have  
13 proceedings for dissolution, annulment, or legal separation pending as  
14 of June 30, 2014, the parties' state registered domestic partnership  
15 is not automatically merged into a marriage and the dissolution,  
16 annulment, or legal separation of the state registered domestic  
17 partnership is governed by the provisions of the statutes applicable  
18 to state registered domestic partnerships in effect before June 30,  
19 2014. If such proceedings are finalized without dissolution,  
20 annulment, or legal separation, the state registered domestic  
21 partnership is automatically merged into a marriage and is deemed a  
22 marriage as of June 30, 2014.

23 (4) For purposes of determining the legal rights and  
24 responsibilities involving individuals who had previously had a state  
25 registered domestic partnership and have been issued a marriage  
26 license or are deemed married under the provisions of this section,  
27 the date of the original state registered domestic partnership is the  
28 legal date of the marriage. Nothing in this subsection prohibits a  
29 different date from being included on the marriage license.

30  
31 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.04  
32 RCW to read as follows:

33 If two persons in Washington have a legal union, other than a  
34 marriage, that:

1 (1) Was validly formed in another state or jurisdiction;  
2 (2) Provides substantially the same rights, benefits, and  
3 responsibilities as a marriage; and  
4 (3) Does not meet the definition of domestic partnership in RCW  
5 26.60.030,  
6 then they shall be treated as having the same rights and  
7 responsibilities as married spouses in this state, unless:  
8 (a) Such relationship is prohibited by RCW 26.04.020 (1)(a) or  
9 (2); or  
10 (b) They become permanent residents of Washington state and do not  
11 enter into a marriage within one year after becoming permanent  
12 residents.

13  
14 **Sec. 12.** RCW 26.60.090 and 2011 c 9 s 1 are each amended to read  
15 as follows:

16 A legal union, other than a marriage, of two persons (~~(of the same~~  
17 ~~sex)~~) that was validly formed in another jurisdiction, and that is  
18 substantially equivalent to a domestic partnership under this chapter,  
19 shall be recognized as a valid domestic partnership in this state and  
20 shall be treated the same as a domestic partnership registered in this  
21 state regardless of whether it bears the name domestic partnership.

22  
23 **Sec. 13.** RCW 1.12.080 and 2011 c 9 s 2 are each amended to read  
24 as follows:

25 For the purposes of this code and any legislation hereafter  
26 enacted by the legislature or by the people, with the exception of  
27 chapter 26.04 RCW, the terms spouse, marriage, marital, husband, wife,  
28 widow, widower, next of kin, and family shall be interpreted as  
29 applying equally to state registered domestic partnerships or  
30 individuals in state registered domestic partnerships as well as to  
31 marital relationships and married persons, and references to  
32 dissolution of marriage shall apply equally to state registered  
33 domestic partnerships that have been terminated, dissolved, or  
34 invalidated, unless the legislation expressly states otherwise and to

1 the extent that such interpretation does not conflict with federal  
2 law. Where necessary to implement chapter 521, Laws of 2009 and this  
3 act, gender-specific terms such as husband and wife used in any  
4 statute, rule, or other law shall be construed to be gender neutral,  
5 and applicable to individuals in state registered domestic  
6 partnerships and spouses of the same sex.

7  
8 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.33  
9 RCW to read as follows:

10 Nothing contained in chapter . . ., Laws of 2012 (this act) shall  
11 be construed to alter or affect existing law regarding the manner in  
12 which a religious or nonprofit organization may be licensed to and  
13 provide adoption, foster care, or other child-placing services under  
14 this chapter or chapter 74.15 or 74.13 RCW.

15  
16 NEW SECTION. **Sec. 15.** A new section is added to chapter 74.13  
17 RCW to read as follows:

18 Nothing contained in chapter . . ., Laws of 2012 (this act) shall  
19 be construed to alter or affect existing law regarding the manner in  
20 which a religious or nonprofit organization may be licensed to and  
21 provide adoption, foster care, or other child-placing services under  
22 this chapter or chapter 74.15 or 26.33 RCW.

23  
24 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.15  
25 RCW to read as follows:

26 Nothing contained in chapter . . ., Laws of 2012 (this act) shall  
27 be construed to alter or affect existing law regarding the manner in  
28 which a religious or nonprofit organization may be licensed to and  
29 provide adoption, foster care, or other child-placing services under  
30 this chapter or chapter 74.13 or 26.33 RCW.

31  
32 NEW SECTION. **Sec. 17.** (1) Within sixty days after the effective  
33 date of this section, the secretary of state shall send a letter to  
34 the mailing address on file of each same-sex domestic partner

1 registered under chapter 26.60 RCW notifying the person that  
2 Washington's law on the rights and responsibilities of state  
3 registered domestic partners will change in relation to certain same-  
4 sex registered domestic partners.

5 (2) The notice must provide a brief summary of the new law and  
6 must clearly state that provisions related to certain same-sex  
7 registered domestic partnerships will change as of the effective dates  
8 of this act, and that those same-sex registered domestic partnerships  
9 that are not dissolved prior to June 30, 2014, will be converted to  
10 marriage as an act of law.

11 (3) The secretary of state shall send a second similar notice to  
12 the mailing address on file of each domestic partner registered under  
13 chapter 26.60 RCW by May 1, 2014.

14  
15 NEW SECTION. **Sec. 18.** Sections 8 and 9 of this act take effect  
16 June 30, 2014, but only if all other provisions of this act are  
17 implemented."

18

EFFECT: Makes the following technical corrections: (1) removes  
a duplicative definition of "religious organization;" (2) codifies  
section 3, relating to the interpretation of "religious  
organization;" (3) removes extra words inadvertently left in.

22

--- END ---